



BILLING CODE: 4410-09-P

**UNITED STATES DEPARTMENT OF JUSTICE
Drug Enforcement Administration**

**Glenn R. Unger, D.D.S.
Declaratory Order**

On March 7, 2014, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Glenn R. Unger, D.D.S., of Clifton Park, New York. The Show Cause Order proposed the revocation of the Certificate of Registration issued to Dr. Unger on three separate grounds.

First, the Show Cause Order alleged that Dr. Unger's New York State dental license expired on June 30, 2010, and that he is "currently without authority to practice dentistry or handle controlled substances in the State of New York, the State in which [he is] registered with the DEA." GX 1, at 1-2. The Order thus alleged that Dr. Unger's registration is subject to revocation under 21 U.S.C. § 824(a)(3). *Id.* at 2.

Second, the Show Cause Order alleged that on June 25, 2012, Dr. Unger submitted an application to renew his DEA registration. *Id.* The Order alleged that notwithstanding that his New York State dental license had expired on June 30, 2010, Dr. Unger falsely stated that his license did not expire until June 30, 2013. *Id.* The Order thus alleged that this constituted a material falsification of the application and was ground to revoke the registration under 21 U.S.C. § 824(a)(1).

Third, the Show Cause Order alleged that notwithstanding his lack of state authority to dispense controlled substances, "between December 2010 and November 2012," Dr. Unger "issued at least seven controlled substance prescriptions" to L.B. and M.N., for drugs which included hydrocodone 10/325mg, Ambien 10mg, and Percocet 5/325mg. *Id.* The Order further

alleged that Dr. Unger violated federal law by authorizing six refills for two of the hydrocodone prescriptions and twelve refills for an Ambien prescription. *Id.* (citing 21 U.S.C. § 829(b) and 21 CFR 1306.22(a)). Finally, the Order alleged that Dr. Unger violated federal law which prohibits the refilling of a schedule II prescription when he authorized two refills of a Percocet prescription. *Id.* at 3 (citing 21 U.S.C. § 829(a) and 21 CFR 1306.12(a)). The Order thus alleged that Dr. Unger had committed acts rendering his registration “inconsistent with the public interest.” 21 U.S.C. § 824(a)(4).

The Show Cause Order also notified Dr. Unger of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedure for electing either option, and the consequence of failing to elect either option. GX 1, at 3 (citing 21 CFR 1301.43). On March 11, 2014, a DEA Diversion Investigator (DI) personally served the Show Cause Order on Dr. Unger who was then incarcerated at the Rennselaer County Jail. GX 3.

Since the date of service, thirty (30) days have now passed and neither Dr. Unger, nor anyone purporting to represent him, has requested a hearing on the allegations or submitted a written statement in lieu of a hearing. I therefore find that Dr. Unger has waived his right to a hearing or to submit a written statement and issue this Decision and Order based on evidence contained in the Investigative Record submitted by the Government. 21 CFR 1301.43(d) & (e).

I make the following findings of fact.

FINDINGS

Dr. Unger was licensed as a dentist by the State of New York between July 16, 1976 and June 30, 2010, at which point he became unregistered to practice dentistry. GX 4. Dr. Unger remains unregistered by the State as of the date of this order.

Dr. Unger also previously held DEA Certificate of Registration FU1504477, pursuant to which he was authorized to dispense controlled substances as a practitioner in schedules II through V. GX 6. While this registration apparently expired in May 2012, on June 22, 2012, a renewal application was submitted for this registration. *Id.* The application listed Dr. Unger's former New York State license number and provided an expiration date of June 30, 2013. *Id.* at 2; GX 5, at 1. The application was not, however, signed by Dr. Unger but by a person named "Nathan Green." GX 5, at 2.

Notably, the Application contains the following statement immediately above the signature line: "Name of Applicant (For Individual registrants, the registrant themselves MUST complete this E-Signature)." *Id.* Moreover, immediately below the E-Signature line, the Application contains the following statement: "This electronic application/DEA form must be certified by the applicant/registrant, if an individual" *Id.*

DISCUSSION

Under DEA regulations:

[e]ach application, attachment, or other document filed as part of an application, shall be signed by the applicant, if an individual. . . . An applicant may authorize one or more individuals, who would not otherwise be authorized to do so, to sign applications for the applicant by filing with the Registration Unit of the Administration a power of attorney for each such individual. The power of attorney shall be signed by a person who is authorized to sign applications under this paragraph and shall contain the signature of the individual being authorized to sign applications.

21 CFR 1301.13(j).

As found above, Dr. Unger did not sign the application. Moreover, according to the registration records of the Agency (of which I take official notice, *see* 5 U.S.C. § 556(e)), Dr. Unger has not submitted a power of attorney designating any person as authorized to sign his application. Accordingly, I find that the June 22, 2012 application was defective and should not

have been accepted for filing. I further declare that DEA Certificate of Registration FU1504477 issued to Dr. Glenn R. Unger on June 25, 2012, was void *ab initio* and order that the registration be terminated. *See id.* § 554(e). There being no application to act upon or registration to revoke, I further order that the Order to Show Cause be dismissed.

It is so ordered.

Dated: August 7, 2014

Thomas M. Harrigan
Deputy Administrator

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